

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING #06-11**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

Whether farrowing crates are exempt from sales and use tax as farm equipment.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (G) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[TAXPAYER], is based in [STATE-NOT TENNESSEE] and is qualified to do business in Tennessee. It manufactures equipment used in total confinement hog raising facilities and sells this product to Tennessee hog farmers. The company also contracts to turnkey these facilities.

The Taxpayer is currently selling farrowing crates to Tennessee farmers that are used in confinement type hog raising facilities. The farrowing crates are small confined areas where the sows give birth. The farrowing crates have been specially manufactured to accommodate and facilitate the care of the sow as well as the birth and care of the piglets through the infant stage. The crates provide for the health and safety of the sows and piglets. The crates are anchored to a wire, cast iron, plastic or concrete slatted type flooring by use of a T-bolt or J bolt which allows the crate to be easily replaced or removed. They weigh approximately 240 pounds and sell for in excess of \$250. The estimated useful life is 7-10 years. The crates are sold assembled or disassembled based on the customer's preference and the number of crates being shipped.

ISSUE

Are the farrowing crates exempt from sales and use tax as farm equipment pursuant to Tenn. Code Ann. § 67-6-102(a)(15)?

RULING

Yes. The farrowing crates qualify as farm equipment and are exempt from sales and use tax if sold to a farmer who presents appropriate documentation as described in this ruling.

ANALYSIS

Tenn. Code Ann. § 67-6-207¹ exempts farm equipment and machinery from Tennessee sales and use tax. "Farm equipment and machinery" is defined, in pertinent part, as:

[A]ny appliance used directly and principally for the purpose of producing agricultural products...for sale and use or consumption off the premises, the retail price of which, for any such single article, exceeds two hundred fifty dollars (\$250), but does not include an automobile, truck, household appliances or property which becomes real property when erected or installed.

Tenn. Code Ann. § 67-6-102(a)(15).

In order for a piece of equipment to be exempt as farm equipment, it must fulfill four requirements: 1) it must be used directly to produce agricultural products, 2) it must be used principally to produce agricultural products, 3) its purpose must be the production of

¹ Public Chapter 311 of 2005 makes July 1, 2007 the effective date of Tennessee's legislation to conform to the provisions of the Streamlined Sales and Use Tax Agreement (SSUTA). When it goes into effect, the conforming legislation will impact the treatment of farm equipment and machinery. The Department of Revenue will make every reasonable attempt to notify impacted parties of these changes. We encourage you to visit our website at www.tennessee.gov/revenue for updates.

agricultural products for sale and use or consumption off the premises, and 4) it must be a single article having a retail price greater than two hundred and fifty dollars (\$250).

The farrowing crates are used directly to produce agricultural products. The agricultural products are the pigs, and the crates directly touch both the sow and the piglets. The crates are used principally for the purpose of aiding the process of birthing piglets; they have no other use. The purpose of the crates is to aid in the production of piglets; they provide a safe place for the sows to give birth and for the piglets to feed without the risk of being trampled by other animals. Furthermore, once the pigs reach a certain age and size, they are sold for consumption off the premises. The crates have a retail price of more than \$250 each, so the last requirement is satisfied so long as the crate constitutes a single article.

There is a question regarding whether the crate constitutes a single article since it can be sold either as an assembled crate or in a disassembled state. An Attorney General's Opinion analyzed this issue and concluded that:

where [a single item] consists of several individual parts when disassembled and is sold as a unit in a disassembled state, the [item] and not its constituent parts should be treated as a single article of personal property where assembly of the [item] does not destroy its character as personal property.

Op. Tenn. Atty. Gen. 22 (July 5, 1973). In accordance with this Opinion, a farrowing crate, regardless if sold assembled or disassembled, would constitute one single article.

Since the farrowing crates fulfill all of the requirements of Tenn. Code Ann. § 67-6-102(a)(15), they qualify as farm equipment and are exempt from sales and use tax pursuant to Tenn. Code Ann. § 67-6-207. A farmer wanting to purchase a farrowing crate must submit a signed statement averring that the item purchased will be used directly and principally for the purpose of producing agricultural products and that it will not become attached to realty. Tenn. Comp. R. & Regs. 1320-5-1-.111(1). For the convenience of taxpayers, the Department has a pre-printed form for this purpose, a copy of which is attached to this ruling.

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APPROVED: Loren L. Chumley
Commissioner

DATE: 4/28/06